

Date Signed:
June 15, 2017



SO ORDERED.

A handwritten signature in black ink, appearing to read "R. Faris", is written over a horizontal line.

Robert J. Faris
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re

GABRIEL CANENCIA, NATLIE
LYNN-BRIONES CANENCIA,

Debtors.

GABRIEL CANENCIA, NATLIE
LYNN-BRIONES CANENCIA,

Plaintiffs,

v.

EWA VILLAGES OWNERS
ASSOCIATION, a Hawaii
corporation, by and through its
Board of Directors; KMT Investment
LLC, a Hawaii limited liability
company,

Defendants.

CASE NO. 17-00163
(Chapter 13)

ADV. NO. 17-90004

Related Docket No.: 16

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING KMT
INVESTMENT LLC'S MOTION TO
DISMISS COMPLAINT

HEARING

JUDGE: Hon. Robert J. Faris

DATE: June 8, 2017

TIME: 9:30 a.m.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
GRANTING KMT INVESTMENT LLC'S MOTION TO DISMISS
COMPLAINT**

On March 21, 2017, Plaintiffs Gabriel Canencia and Natlie Lynn-Briones Canencia (“Canencias”) filed their *Compliant to Recover Fraudulently Conveyed Property* (“Complaint”). On April 20, 2017 Defendant KMT Investment LLC, a Hawaii limited liability company (“KMT”), filed *KMT's 1) Motion to Dismiss Complaint, and 2) Joinder as to Defendant Ewa Villages Owners Association's Motion to Dismiss Complaint* (“Motion to Dismiss”). On May 15, 2017, the Canencias filed *Plaintiffs' Opposition to KMT's Motion to Dismiss Complaint and Joinder as to Defendant Ewa Villages Owners' Association's Motion to Dismiss Complaint*. On May 19, 2017 KMT filed its *Reply Memorandum in Support of KMT's Motion to Dismiss Complaint*.

The Motion came on for hearing June 8, 2017 before the Honorable Robert J. Faris. Richard T. Forrester appeared on behalf of KMT. Steven Guttman appeared on behalf of Defendant Ewa Villages Owners Association, a Hawaii corporation, by and through its Board of Directors (“Association”). Sandra D. Lynch appeared on behalf of the Canencias. No other appearances were made.

The Court, having reviewed the pleadings, declarations, files, and records herein and having considered the arguments made by counsel and finding good cause appearing thereof, the Court makes the following findings of facts and conclusions of law.

FINDINGS OF FACT

1. KMT is the recent purchaser of that certain real property located at 91-1758 Punako Street, Ewa Beach, Hawaii 96706, identified by Tax Map Key (1) 9-1-090-144 (“Punako Property”).

2. The Punako Property is registered with the Assistant Registrar of the Land Court of the State of Hawaii (“Bureau”) and is Land Court Property.

3. The Punako Property was foreclosed and auctioned pursuant to the power of sale held by the Ewa Villages Owners Association, a Hawaii planned community association (“Ewa Villages”) established and operating under Chapter 421J and 424D of the Hawaii Revised Statutes (“HRS”).

4. The *Association’s Affidavit of Foreclosure Sale Under Power of Sale* was recorded at the Bureau February 2, 2017 as Document No. 9894220.

5. The *Association's Quitclaim Deed Pursuant to Power of Sale* was recorded at the Bureau February 2, 2017 as Document No. 9894221 ("KMT Deed").

6. Upon the recordation of the KMT Deed, the Bureau issued Transfer Certificate of Title ("TCT") No. 1131063.

7. Pursuant to the Association Deed, KMT is the owner of the Punako Property.

8. Gabriel and Natlie Canencia previously filed for protection under Chapter 13 of the Bankruptcy Code in Case No. 16-00145 which was dismissed August 11, 2016.

CONCLUSIONS OF LAW

9. This Court has jurisdiction over the parties in this case.

10. Pursuant to *Aames Funding Corp. v. Mores*, 107 Hawaii 95, (2005) the KMT Deed, and the issuance of TCT No. 1131063, title to the Punako Property lies with KMT and is "conclusive and unimpeachable."

11. Accordingly, the Complaint fails to state a valid claim against KMT and KMT is entitled to have the Complaint dismissed with prejudice as against KMT.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that KMT's Motion to Dismiss is granted. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Complaint is hereby dismissed with prejudice as against KMT.

—END OF ORDER—

ORDER SUBMITTED BY:

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A Hawaii Limited Liability Law Company

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